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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,886	01/23/2004	Kathleen M. Frigon	MFCP110228	6020
45809 7590 04/14/2008 SHOOK, HARDY & BACON L.L.P. (c/o MICROSOFT CORPORATION) INTELLECTUAL PROPERTY DEPARTMENT 2555 GRAND BOULEVARD KANSAS CITY, MO 64108-2613				
EXAMINER				
WIENER, ERIC A				
ART UNIT		PAPER NUMBER		
2179				
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04/14/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/763,886

**Applicant(s)**

FRIGON ET AL.

**Examiner**

ERIC A. WIENER

**Art Unit**

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 and 25 June 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/22/2008 has been entered.
2. Claims 1 – 35 are pending. Claims 1, 15, and 28 are the independent claims. Claim 1 is the amended claim. Claims 1 – 35 have been rejected by the Examiner.

### ***Response to Arguments***

3. Upon further review, the declaration filed on 1/22/2008 under 37 CFR 1.131 has been considered and is effective to overcome the Girgensohn reference.
4. Applicant's arguments filed on 1/22/2008 have been fully considered, but are moot in view of new grounds of rejection.

### ***Objections***

5. Claim 11 and 31 contain typographical errors. They each state: "associated said selected characteristic." This should be corrected to state "associated *with* said selected characteristic."

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. *This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).*

8. Claims 1 – 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosenzweig et al. (US 6,950,989 B2), herein after referred to as Rosenzweig, in view of Misawa et al. (US 2003/0154190 A1), herein after referred to as Misawa.

**As per independent claim 1**, Rosenzweig discloses *a computer-implemented method for presenting a set of items to a user, the method comprising:*

- *dividing said set of items into one or more groups according to a selected characteristic (column 2, lines 18 – 37 and column 4, lines 38 – 41), wherein it has been interpreted that Rosenzweig's method for "allow[ing] a user to display*

metaphors which group the pictures" is sufficiently equivalent to allowing items to be presented in one or more groups according to a selected metaphor, or characteristic, further wherein it would be obvious that a user selects said metaphor, or characteristic, because said user is allowed to perform an action which groups the items, and because selecting is an obvious means for performing actions in a user interface such as that of Rosenzweig;

- *automatically generating one or more group titles for at least a portion of said one or more groups, wherein said one or more group titles indicate at least one characteristic shared by the items in one of said one or more groups (column 2, lines 18 – 37);*
- *presenting at least a portion of said set of items in accordance with said groups to the user on a display (column 5, lines 9 – 19); and*
- *presenting a listing of said one or more group titles on said display (column 2, lines 18 – 37).*

Rosenzweig does not explicitly disclose indicating on said display which of said groups contains one or more items currently visible to the user. Nevertheless, in an analogous art, Misawa discloses *indicating on a display which groups contain one or more items currently visible to a user* (Fig. 14 – Fig. 16).

Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Misawa into the invention of Rosenzweig, because both pertain to the art of user interfaces for viewing and browsing items such as images from a data store, and thus one would look to the other for possibly improving difficulties pertaining to their

invention. Furthermore, Rosenzweig discloses "a need for improved GUIs for efficiently and attractively arranging pictures in a digital image database" and "a need for improved, user-friendly GUIs that give image database users a temporal 'feel' for the stored images" (column 1, lines 54 – 61). Therefore, it would have been obvious for Rosenzweig to incorporate well known GUI features for viewing digital image databases, such as concurrently displaying a table of contents alongside the content, wherein the currently displayed content is indicated as currently displayed by outlining, or other means of indicating, said content's grouping in said table of contents. This feature more efficiently indicates to the user in a friendly way which images they are viewing, and would thus be an obvious inclusion.

**As per independent claims 15 and 28,** Rosenzweig discloses *one or more computer-readable storage media storing a graphical user interface and a computer system for presenting a plurality of items to a user, both comprising:*

- *an item presentation area which displays at least a portion of a set of items to a user (column 5, lines 9 – 19), wherein said set of items is presented in one or more groups according to a selected characteristic (column 2, lines 18 – 37 and column 4, lines 38 – 41), wherein it has been interpreted that Rosenzweig's method for "allow[ing] a user to display metaphors which group the pictures" is sufficiently equivalent to allowing items to be presented in one or more groups according to a selected metaphor, or characteristic, further wherein it would be obvious that a user selects said metaphor, or characteristic, because said user is allowed to perform an action which groups the items, and because selecting is an obvious means for choosing a metaphor in a user interface such as that of Rosenzweig; and*

- *a table of contents area which displays a listing of said groups* (column 2, lines 18 – 37)

Rosenzweig does not explicitly disclose that said table of contents area displays an indicator showing which of said groups contain one or more items currently visible in said item presentation area. Nevertheless, in an analogous art, Misawa discloses *a table of contents area that displays an indicator showing which groups contain one or more items currently visible in an item presentation area* (Fig. 14 – Fig. 16).

Thus, it would have been obvious to one of ordinary skill in the art at the time of invention to combine the teaching of Misawa into the invention of Rosenzweig for the same reason as disclosed in the rejection of claim 1, *supra*.

**As per claims 2, 16, and 29** and taking into account the rejection of claims 1, 15, and 28, respectively, Rosenzweig further discloses that *one or more of the presented items are digital images* (column 3, lines 25 – 35).

**As per claim 3** and taking into account the rejection of claim 2, Rosenzweig further discloses that *at least one of the digital images is a digital photograph* (column 3, lines 25 – 35).

**As per claims 4 and 17** and taking into account the rejection of claims 1 and 15, respectively, Rosenzweig further discloses that *said selected characteristic is a creation time or other associated date and/or time within a desired interval of time* (column 4, lines 20 – 67).

**As per claims 5 and 18** and taking into account the rejection of claims 1 and 15, respectively, Rosenzweig further discloses that *said selected characteristic is storage in a desired folder* (column 1, lines 28 – 33 and 54 – 58), wherein metadata used for arranging pictures pertaining to format and data structure has been interpreted as sufficiently equivalent to

metadata that pertains to storage in a desired folder, because data structures pertain to information regarding where items are stored in folders.

**As per claim 6**, and taking into account the rejection of claim 1, Rosenzweig further discloses that *said selected characteristic is associated with one or more desired keywords* (column 4, lines 38 – 67).

**As per claims 7, 20, and 30** and taking into account the rejection of claims 1, 15, and 28, respectively, Rosenzweig further discloses that *the listing of said groups includes information associated with the contents of the groups* (Figs. 1A – 9).

**As per claim 8**, and taking into account the rejection of claim 7, Rosenzweig further discloses that *said information includes date and/or time information* (Figs. 1A – 5).

**As per claim 9**, and taking into account the rejection of claim 7, Misawa further discloses that *said information includes storage location information* (Figs. 14 – 16).

**As per claim 10**, and taking into account the rejection of claim 7, Rosenzweig further discloses that *said information includes associated keyword information* (Figs. 6 – 9).

**As per claims 11, 21, and 31** and taking into account the rejection of claims 1, 15, and 28, respectively, Rosenzweig further discloses that *the listings of said groups includes information associated with said selected characteristic* (Figs. 1A – 9).

**As per claims 12, 22, and 32** and taking into account the rejection of claims 1, 15, and 28, respectively, Misawa further discloses that *indicating which of said groups contain one or more items currently visible to the user includes presenting a visual indicator element with the listing of said groups* (Figs. 14 – 16), wherein a visual indicator element may be one of either the



"Address" information row in the fourth row from the top of Figs. 14 – 16, or a visual indicator element may be the outlining of "My Pictures" in the Folders column on the left side of Fig. 15.

**As per claims 13, 24, and 34** and taking into account the rejection of claims 1, 15, and 28, respectively, Rosenzweig further discloses *indicating volume information related to the number of items in at least one of said groups* (column 3, lines 49 – 62).

In addition, Misawa also further discloses *indicating volume information related to the number of items in at least one of said groups* (Figs. 14 – 16), wherein volume information is located on the bottom row of each of Figs. 14 – 16.

**As per claims 14, 25, and 35** and taking into account the rejection of claims 13, 24, and 34, respectively, Rosenzweig further discloses that *indicating volume information includes presenting one or more volume meters with the listing of said groups* (column 3, lines 49 – 62).

**As per claims 23, and 33** and taking into account the rejection of claims 22 and 32, respectively, Misawa further discloses that *said indicator displays the extent to which the groups having currently visible items are presented in the items presentation area* (Fig. 15).

**As per claim 26** and taking into account the rejection of claim 15, Rosenzweig further discloses that *said table of contents area is configured to receive a user input selecting a listing associated with a selected group* (column 5, lines 9 – 19).

**As per claim 27** and taking into account the rejection of claim 26, Rosenzweig further discloses that *said user input causes at least a portion of the content of said selected group to be displayed in the item presentation area* (column 5, lines 9 – 19).

*Conclusion*

10. It is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

11. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. The cited documents represent the general state of the art.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Wiener whose telephone number is 571-270-1401. The examiner can normally be reached on Monday through Thursday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Eric A Wiener/

Examiner, Art Unit 2179

/Ba Huynh/

Primary Examiner, Art Unit 2179